

United States Court of Appeals
For the Eighth Circuit

No. 14-1845

David Anthony Stebbins

Plaintiff - Appellant

v.

Rita F. Stebbins; David D. Stebbins

Defendants - Appellees

Appeal from United States District Court
for the Western District of Arkansas - Harrison

Submitted: September 24, 2014

Filed: September 26, 2014

[Unpublished]

Before WOLLMAN, BYE, and SMITH, Circuit Judges.

PER CURIAM.

David Stebbins appeals following the district court's¹ pre-service dismissal of his pro se action, in which he alleged that defendants, his parents, improperly listed him as a dependant on their tax returns.

In dismissing Stebbins's complaint, the district court concluded that Stebbins had a history of frivolous litigation and had abused the privilege of proceeding in forma pauperis; the court thus imposed restrictions on Stebbins's future filings. Specifically, the court limited the number of cases that Stebbins could file in the Western District of Arkansas to no more than one case every three months, and only upon payment of a \$50 bond, refunded if the complaint was adjudged not frivolous. The court added that nothing in its order prohibited Stebbins from proceeding with counsel, from defending himself in a lawsuit brought against him, or from filing a claim in which he alleged immediate, extraordinary, and irreparable physical harm. Stebbins challenges the dismissal of the action, and the imposition of filing restrictions.

Upon careful de novo review, see Moore v. Sims, 200 F.3d 1170, 1171 (8th Cir. 2000) (per curiam), we conclude that the district court properly dismissed the complaint for failure to state a claim. We also conclude that the court did not abuse its discretion in imposing the filing restrictions, because it is undisputed that Stebbins has proceeded in forma pauperis on at least sixteen complaints that proved meritless, and has filed numerous frivolous motions, since May 2010; and he had the opportunity to, and did, file objections to the magistrate judge's report recommending the restrictions. See Day v. Day, 510 U.S. 1, 2 (1993) (per curiam) (court may impose filing restrictions where individual has filed numerous frivolous pleadings); In re

¹The Honorable P.K. Holmes, III, Chief Judge, United States District Court for the Western District of Arkansas, adopting the report and recommendations of the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas.

Tyler, 839 F.2d 1290, 1293-94 (8th Cir. 1988) (per curiam) (standard of review); Peck v. Hoff, 660 F.2d 371, 374 (8th Cir. 1981) (in imposing pre-filing review procedure, appellant's opportunity to respond to materials and arguments was sufficient). Further, in these circumstances, we conclude that the restrictions are not unduly harsh. Cf. Tyler, 839 F.3d at 1292-93 (affirming order that prospectively limited plaintiff to filing one in forma pauperis complaint per month); Green v. White, 616 F.2d 1054, 1055 (8th Cir. 1980) (per curiam).

The judgment is affirmed. See 8th Cir. R. 47B.
